

EXHIBIT M



Thursday, July 5, 2007

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STATE OF NEW YORK

729--A

2007-2008 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 3, 2007

Introduced by M. of A. ORTIZ, GOTTFRIED, COOK, P. RIVERA, MAYERSOHN, GABRYSZAK, KOON, LAFAYETTE, GALEF -- Multi-Sponsored by -- M. of A. BOYLAND, BRENNAN, CLARK, D. GORDON, GREENE, HOOPER, LAVINE, LIFTON, MAISEL, MARKEY, PHEFFER, J. RIVERA, TOWNS, WEISENBERG, YOUNG -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to the posting of caloric value of food items

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The public health law is amended by adding a new section
- 2 1352-c to read as follows:
- 3 S 1352-C. CALORIC VALUE. 1. THE COMMISSIONER IS AUTHORIZED AND
- 4 DIRECTED TO PROMULGATE RULES AND REGULATIONS REQUIRING RESTAURANTS AND
- 5 FOOD SERVICE ESTABLISHMENTS SUBJECT TO THE PROVISIONS OF SECTION THIR-
- 6 TEEN HUNDRED FIFTY-ONE OF THIS TITLE TO PROMINENTLY POST CALORIE CONTENT
- 7 ON MENUS AND MENU BOARDS FOR MENU ITEMS IF SUCH MENU ITEMS MEET THE
- 8 FOLLOWING:
- 9 A. CALORIE CONTENT INFORMATION OF SUCH ITEMS IS MADE PUBLICLY AVAIL-
- 10 ABLE, EITHER BY THE ESTABLISHMENT OR AN ENTITY ON ITS BEHALF, ON OR
- 11 AFTER JULY FIRST, TWO THOUSAND SEVEN; AND,
- 12 B. SUCH ITEMS ARE SERVED IN PORTIONS THE SIZE AND CONTENT OF WHICH ARE
- 13 STANDARDIZED. THE RULES AND REGULATIONS SHALL REQUIRE SUCH RESTAURANTS
- 14 AND FOOD SERVICE ESTABLISHMENTS TO POST THE NUMBER OF CALORIES PER MENU
- 15 ITEM ADJACENT TO SUCH MENU ITEMS ON MENU BOARDS, IF PRESENT, AND MENUS
- 16 IN A SIZE OR TYPEFACE AT LEAST AS LARGE AS THE NAME AND PRICE OF THE
- 17 MENU ITEM, WHICHEVER IS LARGER, AND TO POST THE RANGE OF CALORIE CONTENT
- 18 VALUES SHOWING THE MINIMUM TO MAXIMUM NUMBERS OF CALORIES FOR ALL
- 19 FLAVORS OR VARIETIES FOR EACH SIZE OFFERED OF SUCH MENU ITEMS THAT COME

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

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1 IN DIFFERENT FLAVORS OR VARIETIES BUT ARE LISTED AS A SINGLE MENU ITEM.
2 THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO FOOD ESTABLISHMENTS
3 THAT ARE LICENSED UNDER ARTICLE TWENTY-C OF THE AGRICULTURE AND MARKETS
4 LAW EXCEPT FOR SECTIONS WITHIN SUCH ESTABLISHMENTS THAT HAVE BEEN DETER-
5 MINED BY THE DEPARTMENT TO BE RESTAURANTS OR FOOD SERVICE ESTABLISHMENTS
6 SUBJECT TO THE PROVISIONS OF THIS SECTION.

7 2. FOR PURPOSES OF THIS SECTION, THE COMMISSIONER OR HIS DULY AUTHOR-
8 IZED AGENTS OR EMPLOYEES WHO INSPECT RESTAURANTS AND FOOD SERVICE ESTAB-
9 LISHMENTS SHALL ONLY BE REQUIRED TO DETERMINE THAT THE CALORIE CONTENT
10 LISTINGS REQUIRED UNDER THIS SECTION ARE LISTED ON THE MENU OR MENU
11 BOARD. SUCH INSPECTORS SHALL NOT BE REQUIRED TO VERIFY THE ACCURACY OF
12 THE LISTINGS BUT THE COMMISSIONER MAY REQUEST THAT RESTAURANTS AND FOOD
13 SERVICE ESTABLISHMENTS PROVIDE DOCUMENTATION OF THE ACCURACY. NOTWITH-
14 STANDING THE PROVISIONS OF SECTION THIRTEEN HUNDRED FIFTY-THREE OF THIS
15 TITLE, THE PENALTY FOR A VIOLATION OF THIS SECTION SHALL BE LIMITED TO
16 THE PENALTY SET FORTH IN SECTION TWELVE OF THIS CHAPTER.

17 THE PROVISIONS OF THIS SECTION SHALL NOT RESTRICT THE POWER OF ANY
18 COUNTY, CITY, TOWN, OR VILLAGE TO ADOPT AND ENFORCE ADDITIONAL LOCAL
19 LAWS, ORDINANCES, OR REGULATIONS WHICH COMPLY WITH AT LEAST THE MINIMUM
20 APPLICABLE STANDARDS SET FORTH IN THIS SECTION.

21 S 2. This act shall take effect on the one hundred eightieth day after
22 it shall have become a law; provided, however, that effective immediate-
23 ly the commissioner of health is authorized and directed to promulgate
24 any rule or regulation or to take any other necessary action to ensure
25 the timely implementation of this act on its effective date, and
26 provided, further, that the commissioner of health shall consult with
27 nutrition and health professionals, representatives of restaurants or
28 food service establishments, and consumers prior to promulgating any
29 such rule or regulation.

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